June 23, 2011

WASHINGTON, DC— U.S. Congressman Peter DeFazio (D-Springfield) and a bipartisan coalition sent a letter today to President Obama urging him to file a trade complaint with the World Trade Organization (WTO) against the Organization of Petroleum Exporting Countries (OPEC) for manipulating gas prices. OPEC has consistently manipulated the supply and price of oil, driving gas prices up for American consumers and jeopardizing the shaky economic recovery.

“For more than two decades, Democratic and Republican administrations have ignored OPEC’s willful violation of WTO rules,” DeFazio said. “President Obama has a chance to break the mold by immediately filing a dispute with the WTO against OPEC for illegal market manipulation and price fixing which is increasing the price of oil and padding the pockets of dubious regimes around the world. As I did with the Bush I, Clinton, and Bush II administrations, I am urging the Obama administration to stand up for American consumers and businesses that are being gouged by OPEC.”

Under Article XI of the WTO rules, member countries are prohibited from using anything other than, “duties, taxes or other charges,” to limit imports or exports across their borders. DeFazio argues that oil production quotas violate WTO rules. Of the 13 OPEC countries, nine are members of the WTO and the other four have observer status and have applied to join the WTO.

The United States has filed over 92 trade complaints with the WTO since President Obama took office. As a result of these complaints, tariffs have been levied against Chinese tires pricing American-made tires out of the market, and unfair subsidies going to EU’s Airbus and Chinese wind turbine manufacturers have been dropped.

DeFazio’s letter asks the president to build on the momentum of these wins to continue to defend American consumers against unfair trade practices.

The text of the letter to President Obama is below:

June 23, 2011

The Honorable Barack Obama

President

1600 Pennsylvania Avenue, N.W.

Washington, D.C. 20500

Dear President Obama:

We commend you and your administration for improving the enforcement of our trade laws. Since you took office, over 92 complaints have been filed by the United States at the World Trade Organization (WTO). The recent vigor in enforcing these laws has led to tariffs on Chinese tires, successful challenges to the EU subsidies to Airbus, and most recently ending Chinese subsidies for wind turbines. That is why we write to you with urgency to ask your administration to bring a dispute in the WTO against members of the Organization of Petroleum Exporting Countries (OPEC) for manipulating the supply and price of oil at the expense of U.S. consumers and our economic recovery.

OPEC has willfully violated WTO rules for decades. The cartel has and does collude to establish production levels to limit global supply and to maintain artificially high prices. Most recently, during the 159th OPEC Conference meeting in Vienna, Austria, OPEC refused to increase production levels despite growing global demand and lost Libyan production.

We were disturbed to read in the New York Times on June 8 that despite Saudi Arabia's preference and capacity to increase production, Iran and Venezuela opposed any move to increase output in order to maintain crude prices near the present level of $100 a barrel. The unfriendly Ahmadinejad and Chavez regimes appear to be holding the price of oil at artificially high levels to undermine the American economy and to jeopardize our economic recovery.

The U.S. does not have to sit idly by while OPEC manipulates the supply and price of oil. The U.S. can and should bring a dispute to the WTO against members of OPEC for illegal market manipulation and price fixing.

We urge you to continue the momentum you have built in protecting American jobs by filing a WTO complaint against OPEC for violating the General Elimination of Quantitative Restrictions, otherwise known as Article XI of the original General Agreement on Tariffs and Trade (GATT). We believe there is a strong legal basis for the U.S. to pursue this trade complaint. The article states:

“No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.”

In other words, colluding to set production levels violate WTO rules, specifically Article XI. And this is precisely the purpose of OPEC.

The precise meaning of this provision is fleshed out in a 1988 GATT Panel Report on “Japan - Trade in Semi-conductors.” The Panel noted:

“...this wording (in Article XI) was comprehensive: it applied to all measures instituted or maintained by a contracting party prohibiting or restricting the importation, exportation or sale for export of products other than measures that take the form of duties, taxes, or other charges...This wording indicated clearly that any measure instituted or maintained by a contracting party which restricted the exportation or sale for export of products was covered by this provision, irrespective of the legal status of the measure.”

The 1988 GATT panel report clarifies that only duties, taxes or other charges are allowable, not pacts among countries to limit production of a product for export. The oil production quotas devised by OPEC clearly qualify as a “quantitative restriction” and we reiterate our request that the U.S. Trade Representatives be instructed to file a case at the WTO arguing this point.

Finally, we want to bring your attention to Article XX, which sets out a series of broad exceptions to Article XI. Article XX notes that none of the exceptions are valid if they are “applied in a manner which would constitute... a disguised restriction on international trade." Therefore, the broad exception in Article XX that allows restrictions for the "conservation of exhaustible natural resources" would not protect OPEC's market manipulation because OPEC is not restricting oil production due to conservation concerns or to preserve an exhaustible supply. Rather, OPEC is restricting supply solely in order to influence world oil prices which clearly qualifies as a "disguised restriction on international trade."

Of the 12 OPEC countries: eight are members of the WTO (Angola, Ecuador, Kuwait, Nigeria, Qatar, Saudi Arabia, UAE, Venezuela); and four have observer status and have applied to the WTO (Algeria, Iran, Iraq, and Libya). Therefore, filing a case could have a widespread impact.

Mr. President, given your administration’s success in enforcing trade laws and your personal commitment to protecting American jobs and industries, we respectfully ask that you order the U.S. Trade Representative to file a WTO complaint.

Thank you in advance for your prompt attention to this request.

Sincerely,

Peter DeFazio **Michael Michaud**

Member of Congress Member of Congress

Walter Jones **Heath Shuler**

Member of Congress Member of Congress

Chellie Pingree **Steve Cohen**

Member of Congress Member of Congress

Louise Slaughter **Jerry Costello**

Member of Congress Member of Congress

Daniel Lipinski

Member of Congress

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